Edn. & P. H (1941) Department.

Ms SERIES.

G.O. No. 3549

Dated 14-8-41

[Despatch Abstract.]

Surcharge - Rama Reddi - D. Sri - Ex-President, Panchayat Board, Siruguppa, Bellary District - Non-recovery of scavenging fees - Appeal - Rejected.

CERTIFICATE

I, L.Dargan, Examiner of Local Fund Accounts, Madras, do hereby certify under Rule V of the Rules appended to G.O.No.1000 L.S.G., dated the 28th August 1913, that a sum of Rs.27- 6- 0 (Rupees Twenty Seven and Annas Six Only) representing loss caused to the Tirugunpa Panchayat (Ex-Union) Board fund is surchargeable on and due from Sri. D.Rami Reddy who was the President of the Board from the 1st April 1936 to the 31st March 1937 for the reasons set forth below:--

Arrears of Private Scavenging Fees amounting to Rs.27- 6- 0 relating to the year 1933-34 were allowed by the above-mentioned Ex-President to remain uncollected and become barred by limitation of time under Section 172 of the Madras Local Boards Act, 1920, as amended, without any coercive steps having been taken in time for their realization.

Private Scavenging Fees are fees levied to cover the actual cost of the services rendered on requisition and are ordinarily recoverable in advances. This was not done and the fees were allowed to become barred by limitation of time.

The arrears that remained uncollected were pointed out in paragraph 7 of the Audit Report on the Accounts of the Tirugunpa Panchayat Board for the year 1936-37 and in this department's letter L.F.No.674 dated the 25th February 1938 the said Ex- President Sri. D.Rami Reddy was specially requested to remedy the defect but no reply has been received from him till now though the letter was acknowledged by him on the 15th February 1938. As the amount of arrears indicated above has not been recovered or made good till now and as no action can legally be taken hereafter against the defaulters for its recovery, it constitutes a loss to the said Tirugunpa Panchayat (Ex-Union) Board fund and the sum of Rs.27- 6- 0 is, therefore, surcharged on Sri. D.Rami Reddi, Ex-President, Panchayat Board through whose negligence to take prompt action the loss was caused.

The amount should be credited to the aforesaid Tirugunpa Panchayat (Ex-Union) Board fund within fourteen days after the receipt of this certificate unless action is taken under Rule VI of the Rules issued in

SECRETARY TO GOVERNMENT
9-MAY 1941
LOCAL ADMINISTRATION DEPT.

From

Sri., D., Rama Reddy,

Ex-President, Panchayet Board, Siruguppa,

Siruguppa.

LAD. I. 1145-1-B/15/5/41 S/974

To

ASST SECRETARY TO GOVT.
10 MAY 1941
EDUCATION & PUBLIC HEALTH DEPTT.

The Secretary to the Government of Madras,

Local Administration Department,

Fort Saint George, Madras.

Sir,

Surcharge - Non-recovery of scavenging fees

Ref:--Examiner's L.F.No.477 dated 23-4-1941-Surcharge of Rs.27-6-0 being Private scavanging fees for 1933-1934.

This is an appeal preferred under Rule VI (1) of the Rules regarding Audit, surcharge, and disallowance published with G.O.No.1900 L & M dated 28-3-1923.

2. The surcharge ordered is in respect of a sum of Rs.27-6-0 being private scavanging fees for the year 1933--34 which remained uncollected at the close of March 1934. I took charge of the office of the President Panchayet Board, Siruguppa on 1-11-1934 and by then the sum of Rs.27-6-0 had fallen into arrears. Here again there has been neither negligence nor misconduct on my part for the simple reason that a sum of Rs.27-6-0 collectable in advance under the Statute cannot be subject to the provisions of Section 222 of the Madras Local Boards Act. I request that Government may be pleased to peruse carefully the provisions of Section 127 of the Local Boards Act, under which the fees are to be paid in advance by the parties. " The President may contract under that Section" to remove rubbish, filth, etc.,. from any premises but on " payment of fees" therefor. Under the law as it stands now, I beg to submit that the collection of the fees in advance is mandatory and cannot be allowed to remain arrears for three years in which case alone the application of Section 222 whould be permissible. The Examiner has touched this aspect of the question also in his surcharge certificate. But

But nevertheless he has considered it fit to surcharge the amount. Further Private scavanging fees would not constitute an item of tax in respect of which alone the provisions of Rules 32 to 36 in the Taxation Rules would be applicable. I, therefore submit to Government that there is no question of allowing the amounts to become time-barred when they are strictly collectable in advance. I could not make any negligence to collect the amounts in advance for the reason that I took charge after they had been allowed to fall into arrears by my predecessor.

I, therefore request Government to carefully consider the implications of Section 127 of the Act and render justice to me by setting aside this surcharge.

Siruguppa.
Dated 8th., May 1941.

Ex-President, Panchayet Board
Siruguppa.

Ex V.P.N. Dept-
E1
Endt No. 18783-1E1 &21- 5-41

Reported to the Examiner of Local Fund Accounts, Madras, for Remarks.

W Subramanian
20/5
Deputy Secretary to Govt

KPG
19-5-41

JD
19/5

D.S./Ai/26140

Examiner's Office.

Subject: Surcharge-Ex-President, Siruguppa Panchayat Board-appeal-against.

Reference: Education and P.H.Department's endorsement No.18703-1,E.I,dated the 21st May 1941.

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The appellant contends that as private scavenging fees should be collected in advance, and as the fees relate to a period prior to his assumption of office of the President, the responsibility for the failure to collect the amount in this case did not devolve on him and in any case no negligence or misconduct could be attributed to him. He assumes that the"collection of the fees in advance is mandatory" and that the dues cannot be allowed to remain in arrears for three years and,therefore, cannot be "subject to the provisions of Section 222 of the Madras Local Boards Act". These assumptions do not appear to be supported by any authority. The words "on payment of fees" in Section 127 of the Local Boards Act do not necessarily mean that prepayment is obligatory, though in practice on the analogy of the principle laid down in Article 207 of the Municipal Account Code, the fees are held to be recoverable in advance to avoid inconvenience to parties by sudden discontinuance of service on account of non-payment of fees by the parties as well as to avoid difficulties in the recovery of fees or eventual loss of fees to the Panchayat in respect of services actually rendered. The failure to recover the fees in advance is,however, no bar to necessary action being taken subsequently for the collection of the arrears due for the period for which private scavenging service was actually rendered. By the issue of a bill under Section 221 of the Act and by invoking the provisions of rule 31 to 36 of Schedule IV of the Act for such purpose in the manner provided therein within the statutory period of three years prescribed in Section 222 of the Local Boards Act. The appellant's contention,therefore, is not correct and in the absence of a definite statutory provision clearly prescribing collection in advance, the mere fact that the fees which are ordinarily collectable in advance were not so collected by his predecessor, does not relieve him of his own responsibility in the matter of recovery. As the appellant has not thus furnished any adequate reasons for not taking any action from November 1934 to March 1937 for the collection of the arrears due to the Panchayat Board and allowing items to become time-barred, the appeal does not deserve any consideration. It may,therefore, be rejected.

2. The appeal petition received with the above Government Memo. in original is herewith returned.

K.L.Dangan
Examiner of Local Fund Accounts.

L.F.no 2050
8.7.41

To

The Secretary to Government,
~~Local Administration~~ Education & Public Health Department.

Con H.N. Rishi
E1.

The P.P.B. Srinagar has submitted an appeal petition on 27.6.41 to be considered along with the original petition of 8.5.41. The petn of 8.5.41 was referred to the L.S. ante Exr. L.F.A. with Endt No. 18783-1 E1 of 21.5.41 for remarks who has p.7 ante. sent his reply on 8.7.41. in C. No. 26140.

In omissis. The petn of 27.6.41 was referred to Examiner vide Endt No 24465-E1/27.6.41 for confirmation of Endt No. 18783-1 E1/21.5.41 and his reply is awaited.

p.5 ante This may L.O. till 25.7.41.

K.L.P. 9.7.41

Call for this at once. Get it back urgently as the case is fixed up for hearing on 10/7

Recd 7

POST COPY OF TELEPHONIC MESSAGE.

From the Superintendent, Office of the Examiner of Local Fund Accounts, Fort St.George, Madras.

To the Superintendent, E.1 Section, Edn. & P.H.Deptt. Madras.

Dated, Fort St.George, the 14th July 1941.

No. 2225..

Subject:-- Surcharge - Non-recovery of scavenging fees - President, Panchayat Board - Siruguppa.

Reference:-- Your Telephonic Message of date requesting to return E. & P.H. Endorsement No.24465-1 B.1 dated 2nd July 1941.

***

The appeal petition forwarded with the above Endorsement is being submitted to-day to the Examiner of Local Fund Accts., who is at Ootacamund with disposal. It is expected to be received back here in four or five days and the file will be returned immediately on receipt.

SUPERINTENDENT, 14/7

Office of the Examiner of Local Fund Accounts, Fort St.George, Madras.

SB 14.7.41

The file may l.o. the 21.7.41,

KRR 16.7.41.

16/7

WS 17/7

SECRETARY TO GOVERNMENT
17 JUN 1941

The Secretary to Government,

Local Administration Department, 7715

Fort Saint George,

MADRAS.

Sir,

SUB:- Reference Examiner's letter No. 477 dated the 23.4.41 and my appeal dated 8.5.41.

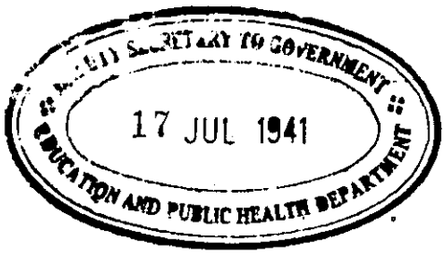
In continuation of my appeal dated 8.5.41 I beg to state further that the amount of Rs.27-6-0 surcharged on me for loss of Revenue to the Panchayat Board, Siruguppa is an amount to be collected strictly in advance. This point I have already mentioned in my appeal I state, the private Scavenging Fees levied in Panchayat Boards is for some definite fixed period, i.e., Quarterly as per Rules in vogue in several Panchayat Boards in the Presidency. As the fees levied is for some definite and fixed period, this may be considered as an item of 'Miscellaneous Revenue' to be collected without any delay and not as fees, or an amount due to a Panchayat Board which can be recovered under Section 221 of the Local Boards' Act of 1930.

2. The amount surcharged relates to the year 1933-'34. The amount should have been collected at leat during the period for which it was meant, by my predecessor, though he failed to collect it strictly in advance, as per Rules. The right of collection of these payments had not been enforced by my predecessor during his regime. There was no hold for me to collect the amounts as I took charge of the --- President-ship of the Board on ~~19.11.1934~~ 1-11-34. The levy of fees is meant for purpose of rendering service by the menials of the Board to the person who pays the fees, on condition of paying the fees in advance. This fact having been known by the defaulters, no amount of persua--sion by me for payment of the fees, by them, was of no use during my regime.

P.T.O.

I, therefore request that the above facts may kindly be taken into consideration at the time of disposal of my appeal.

For which act of kindness I shall ever be grateful.



27507

I beg to remain
Sir,
Your most obedient servant,

Siruguppa.
Dated:-20-6-'41.

Ex- President,
Panchayat Board, Siruguppa.

LAD

EPH wo in continuation of
(AU. No. 13095-1-B, dt 15/5/41.

26/6/41

CSN
23/6

AU.
13715-1-B,
26/6/41.

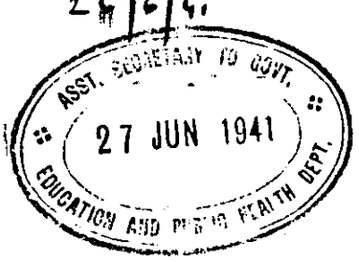
24.6.41

C. No. 24465

Edn & P.H. Dept
E1

Endt. No. 24465-1E1 dt. 2-7-41.

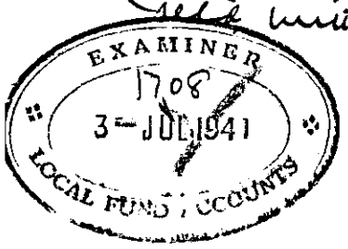
Referred to the Examiner of Local Fund Accounts, Madras for remarks in Continuation of Endt. No. 18783-1 E1 dt 21-5-41.



24465

KRB

To
The Exr. L.F.A Madras
(with c.f in orgl. file
sent with reply) ?



KRB
28/6/41

N. Subramanian
30/6
Dy Examiner

Examiner's Office.

L.F.no 2291
17.7.41

Subject: Surcharge-Siruguppa Panchayat Board (Bellary) -appeal from Sri D.Rama Reddy ex-President, Siruguppa Panchayat Board.

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Reference: Education and P.H.Endorsement No.24465-1-E1, dated 2-7-1941.

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I have no further remarks to add to what has already been stated in this department L.F.No.2050, dated 8-7-1941, as no fresh points have been raised by the appellant in his petition under reference.

The enclosure received with Government Endorsement referred to above is returned herewith.

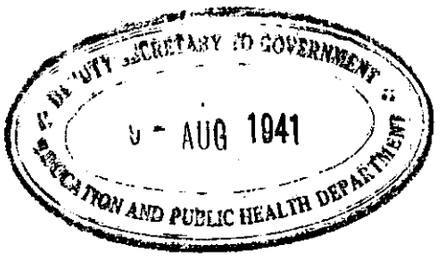
K.L Dargan.
Examiner of Local Fund Accounts.

To

The Secretary to Government,
Education and P.H.Department.

Extract of para 1 of the petition of Sri D.Rama Reddi, ex-P.P.B. Siruguppa, dated 29-7-41.

...



REF: Examiner's Surcharge Certificates Nos. 305, 306, 475 to 477 dated the 17th April 1941 and 23rd April 1941.

My appeals dated the 8th May 1941.

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1. Examiner's L.F. No.477, dated 23-4-1941:-

I learn, the Demand Notices pertaining to the amount of Rs. 27-6-0 being the private Scavenging Fees for the year 1932-33 surcharged on me as a loss of revenue to the Panchayat Board, Siruguppa, were not got served on the persons from whom the amounts were due, by my predecessors during the periods of their regime. A verification of the connected records may reveal the discrepancy pointed out by me. Such an act of omission was committed by my predecessors.

x x x

Surcharge – Rama Reddi. D. Sri –
Ex-President of Panchayet Board,
Srungapura, Bellary District –
Non-Recovery of Servenging fees –
Appeal – Rejected –

– C. No. 18783 from Sri. D. Rama Reddi, Ex P.P.B. Srungapura,
Bellary dt Dy 8.5.41.

– C. 26/40. from the Exr. L.F.A. No 2050 Dy 8.7.41.

– C. 24665 from Sri D. Rama Reddi, Ex P.P.B. Srungapura,
Bellary dt Dy 20.6.41.

– C. No. 27507 From the Exr. L.F.A. 2291 Dy 17.7.41

A Sum of Rs 27-6-0.
being private Servenging fees due to
~~Surcharged by~~ the Srungapura Panchayet
Board, for the year 1933-34, was Sur-
charged and was ~~now~~ alleged to be cleared.
The Exr. L.F.A. Surcharged
this amount on the
ex President Panchayet Board
Sri. D. Rama Reddi in the Exrs
L.F. No 477 dated 23.4.41.
Sri. Rama Reddy has
preferred an appeal against the
Surcharge and contends that the

he took charge as the President, Panchayet Board, only on 1-11-1934, and that the fees claimed have been collected in advance by his predecessor, and that he is not responsible for what his predecessor had neglected to do.

Kind attention is solicited to the Examiner's remarks on I.T.C.P. The Exr. Considers that there is no case for the appellant and that the appeal may be rejected.

Submitted for orders

U.N.B. 21.7.41

The appellant invites reference to Sec. 124 of the M.L.B. Act. and says that the collection of P.S. fees in advance is mandatory and that therefore no question of its having subsided to the provisions of Sec. 222 of the L.B. Act which imposes a limitation of 3 years for the collection of taxes and fees. The Exr, on the other hand, argues that the words "arrangement of fees" in Sec. 127 (c) do not necessarily mean that prepayment is obligatory. The disposal of this appeal depends

p 3-9-41

p 7 Sep.

as a decision on the formula
Legal. [illegible] Corrections &c.

21/7/41

25/7
Legal.

Ex P.A. No. 18783-2 E1
23.7.41

ASSISTANT SECRETARY
24 JUL 1941
LEGAL DEPARTMENT

Legal Department

There is no force in the contention advanced by the President of the Panchayat Board. There is nothing in section 127 of the Local Boards Act which makes pre-payment of the scavenging fees obligatory. The view expressed by the Examiner on this point is correct.

A, b 7, cf

K M
25/7/41

25/7/41

Ex P A

Legal 4653-1
26/7/41

Ex P A Dept
E1.

GOVERNMENT OF MADRAS
26 JUL 1941
L DEPT.

T.C.A

Submitted that the Legal Dept also agrees with the views of the Exr of L.F.A. The orders whether the appeal may be rejected

K M 26/7

28/7

KRS
29.7.41.

In view of the notes of Legal and the Exr, the appeal may be rejected.

WS
10/8.

Please see the extract of the P.P.B's letter
P.T.O.

letter on 15 C.P. The point has already been considered vide p. 1-2 ante. A draft order is ruled

HAB
11.8.41.

ull
12.8.41

hrs
14/8.

O.F. 16.

DRAFT FOR APPROVAL.

Date. Initials.

L & P. H. Dept
E.

SUBJECT :— Panchayat - Rama Reddi - D. Sri - Ex - president panchayat board, Siruguppa, Bellary Dt - Non-recovery of Kamangi fees - Appeal - Rejected.

	Date.	Initials.
When received for fair copying ..		
When copied ..		
When examined..		
When signed ..		
When despatched.		

READ AGAIN ....., dated ..... 19....

" " ..... " ..... 19....

READ *ALSO* :— Appeal Sri D. Rama Reddi

G. O. No. 18783 From the Ex. P. H. Tr., No. ....., dated 8.8.1941

" 26140 " Siruguppa Exr 1=A " 2050 " 8.7.1941

" 24465 Appeal Sri D. Rama Reddi " 20.6.41

" 27507 " Exr 1=A. " 2291 " 17.7.41

Order / Resolution Ms. / Rout. No. 3549, dated 14.8.1941

The Govt. see no reason to interfere. The appeal is rejected in toto.

KRR
11.8.41

WS
14/8.

To

Sri. D Rama Reddi
Ex. P.P. B. Siruguppa
Bellary Dt.

Collector Bellary

r.o. Siruguppa
P.B.
P.O. Bellary

L.A.

Exr. L.A.

Fd

12.8.41

12-8-41